

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 16-CR-20280

v.

Honorable Nancy G. Edmunds

JAMES ROBERT BATES,

Defendant.

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**ORDER DISMISSING DEFENDANT'S MOTION TO CORRECT RECORD [55]**

Before the Court is Defendant's motion to correct record. (ECF No. 55.) The Government filed a response. (ECF No. 56.)

Defendant James Robert Bates is currently in the custody of the Federal Bureau of Prisons (FBOP) at FCI Sheridan. (ECF No. 55.) In his motion, Defendant alleges that he was in federal custody prior to the time of sentencing, yet did not receive credit for an approximate 9 month period that he was in federal custody between the time of April 11, 2016 (the date he was taken into custody), and the January 26, 2017 sentencing.<sup>i</sup> (ECF No. 55.)

The government responds that "the Attorney General, not the court, has the authority to compute sentence credits for time in detention prior to sentencing." *McClain v. Bureau of Prisons*, 9 F.3d 503, 505 (6th Cir. 1993). "The district court may, however, grant petitioner relief under 28 U.S.C. § 2241." *Id.* A proceeding under 28 U.S.C. § 2241 must be "commenced in the district court having territorial jurisdiction over

petitioner's custodian." *Wright v. U.S. Board Of Parole*, 557 F.2d 74 (6th Cir. 1977); see also *Charles v. Chandler*, 180 F.3d 753, 756 (6th Cir. 1999).

Defendant is currently in Sheridan, Oregon. Even if the Court were to construe Defendant's motion as a petition pursuant to 28 U.S.C. § 2241, this Court lacks jurisdiction over his motion.

For these reasons, Defendant's motion to correct record (ECF No. 55) is dismissed without prejudice.

SO ORDERED

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: August 5, 2022

I hereby certify that a copy of the foregoing document was served upon Defendant and counsel of record on August 5, 2022, by electronic and/or ordinary mail.

s/Lisa Bartlett  
Case Manager

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<sup>i</sup> Defendant alleges that in February 2016, he violated his state parole and was sent back to prison. (ECF No. 55.) While awaiting a parole violation hearing, the United States Marshals took him into federal custody on April 11, 2016. (ECF No. 55.) On April 12, 2016, Defendant was detained pending trial/hearing. (ECF No. 6.) On April 19, 2016, a grand jury indicted Petitioner on one count of bank robbery, pursuant to 18 U.S.C. § 2113(a). (Indictment, ECF No. 8.) Petitioner pled guilty to that count on September 21, 2016. (Rule 11 Plea Agr., ECF No. 26.) On January 30, 2017, the Court sentenced Petitioner to 120 months, to run concurrent with a state court sentence. (Judgment, ECF No. 33.)